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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,940	11/04/2003	Charles E. Heger	549242002200	7139
25226	7590	06/29/2004	EXAMINER	
MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018			GUADALUPE, YARITZA	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/701,940

Applicant(s)

HEGER ET AL.

Examiner

Yaritza Guadalupe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14, 18-26 and 38-44 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 15-17 and 27-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/28/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3 – 4, 7, 13 – 14 and 18 - 25 rejected under 35 U.S.C. 102 ( b ) as being anticipated by Seki ( US 6,430,823 ).

Seki discloses a device comprising a leveling platform ( 4 ) providing a reference surface made substantially leveled, and one or more light emitting modules ( 9, 28 ) detachable from the leveling platform and having at least two sides for parallel positioning on the reference surface. Seki discloses said leveling platform being manually leveled and coupling electrical power to the light emitting modules. Seki further discloses a housing ( 2 ) having a plurality of sides and a plurality of apertures for receiving said light emitting modules, wherein said apertures include lenses for collimating the ray of light emitted by the modules ( 9 ) so the light has a predetermined orientation fixed to the one or more sides of the housing ( 2 ).

Seki teaches a device wherein said housing has at least three reference sides, defining six rectangular sides, one of said sides defining an aperture for the light emitting module ( See figure 1 ). Seki discloses said rectangular sides having linear dimensions defining a cube. Seki teaches a device wherein the predetermined orientation of the light source is parallel and / or orthogonal to at least one of the reference planes, and wherein the light emitted from the module forms a plane of light.

3. Claims 18 and 26 rejected under 35 U.S.C. 102 ( b ) as being anticipated by Rando ( US 6,005,719 ).

Rando discloses a laser tool having a housing ( 48, 100 ) having two or more reference sides defining a reference plane, said housing having a light source ( in the housing and emitting light having a predetermined orientation with respect to each of the reference planes. Rando also discloses the light emitted from the housing forming a linear beam of light that projects a spot on a distant surface.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seki ( US 6,430,823 ).

Seki discloses a device as stated in paragraph 2 above.

Seki does not disclose the self-leveling platform as stated in claim 2.

Regarding claim 2 : Seki discloses a device comprising a leveling support that is manually adjustable and leveled. The use of the particular type of leveling support as claimed by applicant, i.e., self-leveling, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the support is accurately leveled during use, as already suggested by Seki, 2) the leveling support claimed by Applicant and the leveling support used by Seki are well known alternate types of leveling supports which will perform the same function, if one is replaced with the other, of accurately leveling the support during use, and 3) the use of the particular type of leveling support by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of leveling supports that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to accurately level the support during use as already suggested by Seki.

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6. Claims 7 – 14 and 38 – 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dong ( US 5,864,956 ) in view of Wu ( US 6,178,649 ).

Dong discloses an apparatus having a plurality of housings ( 7 ) having a plurality of sides, said housings connected within each other, an aperture (6) defined in a first of the sides, a light source ( 2 ) mounted within the housing and wherein the aperture allows the light from the light source to pass and further including a lens ( 1 ), said light source has a predetermined orientation.

Dong does not disclose the magnetic fasteners as stated in claims 7 – 12.

Regarding claims 7 – 12 : Wu discloses an apparatus having a housing ( 11, 12, 13 ), an aperture ( 121 ) defined in a first side, and a magnetic fastener ( 74 ) in one of the sides, said magnetic fastener being a magnet ( 74 ) fixedly mounted on the side and spread around the aperture. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a magnetic fastener on the sides of the housing disclosed by Dong in order to securely connect the multiple housings during use so as to prevent from undesired movement and increase the accuracy of the predetermined direction of the light source.

The method including the step of leveling a reference surface on a platform, attaching magnetically a reference side of the laser module to the platform and providing power to the

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laser module, positioning a second and / or a third laser modules parallel to the first laser module, rotating the magnetic poles to align the members, detaching the modules, etc, as stated in claims 38 - 44 will be met by the regular operation of the apparatus disclosed by Wu.

### *Allowable Subject Matter*

7. Claims 5 – 6, 15 – 17 and 27 – 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Conclusion*

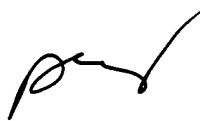
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application :

- a. Le ( US 5,539,990 )
- b. Wu et al. ( US 5,983,510 )

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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